

### REMARKS

Claims 1, 3-7 and 9-15 are in the case. Claims 1, 3-7 and 9 have been amended herein, claims 2-8 have been cancelled without prejudice, and claims 10-15 have been added.

The Examiner has objected to the specification. Applicants have amended the specification to correct the informality noted by the Examiner, and to correct other minor errors and informalities.

Claims 1 and 3-7 have been rejected under 35 U.S.C. 112, second paragraph. Applicants have amended these claims to correct the errors noted by the Examiner, and respectfully request that this rejection be withdrawn.

Claim 9 has been rejected as anticipated by Badyal, and claims 1, 6, 7 and 9 have been rejected as being anticipated by Vernon, Jr. While Applicants do not concede that these rejections are proper, claims 1 and 9 have been amended to include the subject matter of claim 2, which has not been rejected as anticipated. Applicants respectfully submit that these rejections have been overcome by this amendment. Accordingly, Applicants respectfully request that these rejections be withdrawn.

Claims 1-7 and 9 have been rejected as being unpatentable over Warby in view of Badyal. This rejection is respectfully traversed. Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness. Applicants have found that the use of the particular fluorinated acrylates recited in claim 1 (previously recited in claim 2) in coating surfaces of a delivery device significantly reduces drug adhesion to the coated surfaces.

To establish a *prima facie* case of obviousness, the Examiner must establish (1) that the prior art reference (or references when combined) teach or suggest all the claim limitations; (2) that there is some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or references, or to combine reference teachings; and (3) that there is a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. (MPEP §2143).

With regard to requirements (2) and (3) above, there is no motivating disclosure in the references of record that would have led one of ordinary skill in the art to look to Badyal when considering modifications to the coatings described in Warby. Nor would the artisan have had a reasonable expectation of success in substituting the compound of Badyal for those used in Warby.

The Examiner asserts that the disclosure in Example 3 of Badyal of plasma polymerization of 1H, 1H, 2H, 2H-heptadecafluorodecyl acrylate would have motivated a person of ordinary skill in the art to use this particular acrylate in the cold plasma coating process disclosed by Warby. Applicants believe that this is a clear use of impermissible hindsight, and the impermissible "obvious to try" standard.

The Examiner contends that the motivation to modify Warby's coatings to include the monomer of Example 3 of Badyal is that "the coating of Badyal serves the same purpose as that of Warby (i.e., a repellent coating for biomedical devices)" and that "one skilled in the art would be further motivated to use the monomer of Badyal to improve the repellency since Badyal et al. teach that the degree of repellency is a function of the length of the fluorocarbon groups." Applicants disagree with these contentions.

With regard to the Examiner's first contention, the purposes served by the coatings are not the same. Warby's coating is intended to inhibit deposition of a drug on the surface of a drug delivery device, while Badyal's coatings are intended to impart oil and water repellency, particularly to a fabric. Badyal does not suggest that his coatings would be useful in inhibiting drug deposition on a surface of any kind. The Examiner directs Applicants' attention to p. 10, lines 9-14 of Badyal, which contain the only reference to anything remotely drug-related in the entire reference: Badyal's mention that "In particular, the substrates are fabrics but they may be solid materials such as biomedical devices." A biomedical device could be anything from an implant to a catheter, and thus the two words "biomedical devices" would not have suggested anything to the artisan regarding the suitability of the coatings for use in Warby's application.

With regard to the Examiner's second contention, at most Badyal suggests that chain length increases oil and water repellency, which for the reasons discussed above would not have

led the artisan to look to Badyal in the first place, or to believe that Badyal's compound would be suitable for use in Warby's coating process.

Applicants respectfully submit that the Examiner has simply used the Applicants' claims as a roadmap to make an artificial connection between disparate art in order to reject the Applicants' claims. It is axiomatic that obviousness cannot be established by simply stitching together disparate pieces of prior art using the Applicant's claims as a template (see, e.g., Interconnect Planning Corp. v. Feil, 774 F.2d 1132; Loctite Corp. v. Ultraseal Ltd., 781 F.2d 861; and In re Fine, 837 F.2d 1071) because Applicants' claims are not disjointed lists of elements, but present an invention that must be considered *as a whole* (see, e.g., MPEP 2141.02, and Stratoflex, Inc. v. Aeroquip, 713 F.2d 1530).

In view of the above, Applicants respectfully request that this rejection be withdrawn.

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Respectfully submitted,

Date: September 18, 2006

/Celia H. Leber/  
Celia H. Leber  
Reg. No. 33,524

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906